

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JAMES MAXENIER
111 White Plains Road
Bronxville, New York 10708

Plaintiff,

v.

**NATIONAL RAILROAD PASSENGER
CORPORATION**

1 Massachusetts Avenue, NW
Fifth Floor, Office 553
Washington, DC 20002

Defendant.

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Case No. _____

**Removed from the Circuit Court
of Baltimore City, Maryland
Case No. 24-C-20-005114**

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. sections 1331, 1349, and 1441(a), National Railroad Passenger Corporation (hereinafter “Defendant” or “Amtrak”), by its undersigned counsel, hereby notices the removal of this action to the United States District Court for the District of Maryland. As grounds for this removal, Amtrak states as follows:

1. On or about November 14, 2020, Plaintiff, James Maxenier (“Plaintiff”) commenced this action against Defendant by filing a Complaint in the Circuit Court for Baltimore City, Maryland. Plaintiff’s Complaint was assigned Case No. 24-C-20-005514 (hereinafter, the “State Court Action”).

2. Defendant Amtrak was served a copy of the Summons and Complaint on or about January 27, 2021.

3. Pursuant to 28 U.S.C. section 1349, “[t]he district courts shall not have jurisdiction of any civil action by or against any corporation upon the ground that it was incorporated by or under an Act of Congress, unless the United States is the owner of more than one-half of its capital stock.” (Emphasis added.) As Amtrak was created by an Act of Congress¹ and a majority of the capital stock of Amtrak is owned by the United States,² the federal courts have subject matter jurisdiction over any action involving Amtrak, assuming the procedural requirements for removal have been followed. *Aliotta v. National Railroad Passenger Corp.*, 315 F.3d 756, 758 n.1 (7th Cir. 2003) (explaining that pursuant to 28 U.S.C. sections 1331 and 1349, “federal courts have jurisdiction over all cases involving Amtrak, regardless of the cause of action”); *Maryland Transit Admin. v. AMTRAK*, 372 F. Supp. 2d 478, 479 n.2 (D. Md. 2005) (noting that, as Amtrak was organized under the Rail Passenger Act of 1970 and as the United States owns more than half its stock, subject matter jurisdiction was proper under 28 U.S.C. sections 1331 and 1349); *Estate of Wright v. Illinois Central Railroad*, 831 F. Supp. 574, 574 (S.D. Miss. 1993) (denying motion to remand; noting that Amtrak was created by an Act of Congress and that the United States owns greater than fifty percent of Amtrak’s capital stock).

4. Pursuant to 28 U.S.C. section 1441 (a), any civil action over which the federal courts have original jurisdiction, but which is brought in state court, may be removed to the district court of the United States that embraces the place where such action is pending. This removal is to the District Court of the United States of Maryland, the jurisdiction where the State Court Action is pending.

¹ Amtrak was created by the Rail Passenger Services Act of 1970. *See* 49 U.S.C. § 24101 *et seq.*

² The United States government, through its Department of Transportation, owns all of Amtrak’s issued and outstanding preferred stock. *See* National Railroad Passenger Corporation and Subsidiaries Consolidated Financial Statements at Note 2.

5. This Notice of Removal is being filed within 30 days after Amtrak was served with a summons and complaint in this action. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. section 1446 (b).

6. Amtrak is the only defendant in this action and consents to this removal.

7. Pursuant to 28 U.S.C. section 1446 (a), a true and legible copy of all process, pleadings, and orders served in the State Court Action as of this date are attached hereto as **Exhibit A**.

8. A Notice of Filing of Notice of Removal, attaching a copy of this Notice of Removal, is being filed on this date with the Clerk of the Circuit Court of Maryland for Baltimore City, and is being served on Plaintiff's counsel as required by 28 U.S.C. Section 1446 (d). A copy (without attachments) of the Notice of Filing of Notice of Removal filed in the State Court Action is attached hereto as **Exhibit B**.

WHEREFORE, Defendant National Railroad Passenger Corporation respectfully requests that this Notice of Removal be accepted and that the State Court Action be removed to the United States District Court of Maryland.

Dated: February 24, 2021

Respectfully submitted,

/s/ Ifeanyi O. Ezeigbo

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Counsel for Defendant

National Railroad Passenger Corporation

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of February 2021, a copy of the foregoing
Notice of Removal, which was filed electronically in this case on this 24th day of February 2021,
and was sent via First-Class mail, postage prepaid, to:

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/s/ Ifeanyi O. Ezeigbo

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